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09/062,255 04/17/98 MARAVETZ

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| EXAMINER |
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| ART UNIT | PAPER NUMBER |

3611
DATE MAILED:

28

10/11/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/062,255

Applicant(s)
Maravetz et al.

Examiner
Vanaman

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3611



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Jul 19, 2001
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28, 30-43, and 45-78 is/are pending in the application.
- 4a) Of the above, claim(s) 78 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 24, 33-43, 45-50, and 73 is/are allowed.
- 6) ☒ Claim(s) 1-23, 25-28, 30-32, 51-72, and 74-77 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- *See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 20) ☐ Other:

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Request for Continued Examination

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on May 18, 2001 has been entered.

Status of Application

2. Applicant's amendment, filed Nov. 17, 2000 has been entered in the application. Claims 1-28, 30-43, and 45-78 are pending.

Election/Restriction

3. Claim 78 remains withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 12.

Claim 78 was withdrawn from consideration in view of applicant's amendment of Nov. 17, 2000 which referred to the limitations of claim 78 as being shown in the embodiment of figures 3-23, a non-elected species (see applicant's remarks, page 6 of paper No. 20). The species elected by applicant was species II, as shown in figures 24-31.

Claim Rejections - 35 USC § 112

4. Claims 1-23, 25-28, 30-32, 51-72 and 74-77 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 1, 51, 54, 61, and 74 are confusing in that the recitations appear contradictory: in claim 1, lines 4 and 16; claim 51, line 12; claim 54, lines 1 and 10; claim 61, lines 1 and 10; and claim 74, line 4, reference is made to a non-safety releasable

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binding, however in claim 1, lines 18 and 19; claim 51, lines 14-16; claim 54, lines 11-12; claim 61, lines 11-12; and claim 74, lines 9-12 the recitations are directed to an automatic release associated with the removal of a boot from a binding. Such automatic release appears contradictory with the recitation that the binding is non-safety releasable, absent further recitation reconciling the non-safety releasability and the automatic release associated with a boot stepping out of the binding. In claim 62, "the at least one stop" lacks a clear antecedent basis-- note amended claim 61 no longer recites at least one stop.

Claim Rejections - 35 USC § 103

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

6. Claims 1-5, 7-12, 15, 17-19, 25, 27, 30-32, 51-64, 66-72 and 74-77 are rejected under 35 U.S.C. 103(a) as being unpatentable over Romano in view of Bobrowicz (US 5,815,952).

Romano teaches a step-in engagement system for connecting a shoe (8) to a pedal (1) comprising a cleat (5) located on a lower shoe surface and having a base with a pair of chamfered sides (12, 10a) presenting an overall wider profile towards the base than away therefrom (note figs. 2, 3), which is provided with a pair of shelves (e.g., 9) which retain a pair of movable retaining loops (48, 48a, fig. 7, 8) which are spring biased (more clearly shown at 19) which have a width and height greater than a fixed stop element (15, also tabs 40) and can bend about the fixed stop element (one sided version in fig. 4), the fixed stop provided to define the lower end of motion for the cleat. The cleat is further provided with a pair of lips (10, 11) at the shoe-facing base surface, which retain the loops in the attached position (fig. 8). The cleat is adapted to be connected to the retaining loops by a downward motion which spreads the retaining loops apart and allows them to close and retain the cleat through the interaction of the loops and the shelves (9) of the cleat, whereby a vertically upward motion is prevented, but through a pivoting motion (e.g., about a vertical axis associated with the cleat- fig. 5) the cleat can be released from the engaging loops.

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The reference of Romano fails to explicitly teach the binding device as usable between a snowboard boot and binding. Bobrowicz teaches a system for connecting a shoe (2, 3, 4) to a snowboard through a binding pair (30, 34; or 50; or 60-63, etc), wherein the binding pair is taught to be useful in applications in the bicycle and ski attachment realm (cols. 7-8). It would have been obvious to one of ordinary skill in the art at the time of the invention to use the attachment system of Romano to connect a snowboard boot to a snowboard as suggested by the alternative usefulness set forth in Bobrowicz, for the purpose of allowing the easy connection and disconnection advantages taught by Romano to a snowboard user.

The reference of Romano as modified by Bobrowicz fails to teach that the mating engagement loops and cleat may be used such that the loops and surfaces 10a and 12 are located laterally with respect to one another, rather than longitudinally. In view of the motions of operation remaining the same (i.e., a vertical downward motion to attach and a pivoting motion to release) regardless of the orientation of the cleat and engaging members, it would have been obvious to one of ordinary skill in the art at the time of the invention to orient the cleat and cleat engagement mechanism such that the cleat presents lateral and medial chamfered surfaces, for the purpose of decreasing the longitudinal overall length of the front binding element of Romano as modified by Bobrowicz, in order to use a smaller quantity of material.

The reference of Romano as modified by Bobrowicz fails to explicitly teach the free end of the cleat as being narrower than the loop-to-loop distance and the base end as being wider. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the free end of such a width that the free end may easily engage and spread apart the loops (as required for operation of the vertical engagement) and further it would have been obvious to one of ordinary skill in the art at the time of the invention to provide the base end of such a width that the loops are maintained under a degree of tension for the purpose of insuring that the loops exert a reaction force (e.g., towards 10, 11) to prevent an undesired disengagement of the cleat from the loops

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Allowable Subject Matter

7. Claims 6, 13, 14, 16, 20-23, 26, 28 and 65 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.
8. Claims 24, 33-43, 45-50 and 73 are allowed.
9. Applicant is reminded that claim 78 remains withdrawn from consideration as being drawn to the species of figures 3-23, the elected species being that associated with figures 24-31.

Response to Arguments

10. Applicant's arguments have been carefully considered. As regards the definition of 'non-safety releasable', applicant's comments in the remarks have been considered and are persuasive, and this phrase will be interpreted as applicant has suggested in the remarks and the portions of the specification to which applicant has specified.

As regards the reference to Bader, the examiner agrees that this reference cannot be considered to be 'non-safety releasable' as applicant has defined, and the rejections based upon the reference to Bader have been withdrawn.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Tanaka (US 5,845,421) teaches a boot connection system usable for snowboards and bicycling.

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12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to F. Vanaman whose telephone number is (703) 308-0424. Any inquiry of a general nature or relating to the status of this application should be directed to the group receptionist whose telephone number is (703) 308-1113.

Any response to this action should be mailed to:

Assistant Commissioner for Patents

Washington, DC 20231

or faxed to :

(703) 305-3597 or 305-7687 (for formal communications intended for entry; informal or draft communications may be faxed to the same number but should be clearly labeled "UNOFFICIAL" or "DRAFT")

F. VANAMAN
Primary Examiner
Art Unit 3611

F. Vanaman
October 4, 2001



10/4/01